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USPTO GPAU 2686**FAX NO.:** 571-273-8300**FROM:** Ryan S. Davidson
Reg. No.: 51,596**RE U.S. App. No.:** 10/764,812 filed 1/26/04**Applicant(s):** Martha Karen Boyd**Atty Dkt No.:** 1033-MS1013**Title:** INTEGRATED MOBILE PHONE RING SCHEDULER**NO. OF PAGES (including Cover Sheet):** 7**MESSAGE:**

Attached please find:

- ☒ Pre-Appeal Brief Request for Review (1 pg)
- ☒ Notice of Appeal (1 pg)
- ☒ Remarks in Support of the Pre-Appeal Brief Request for Review (4 pgs)

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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) 1033-MS1013 | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>11/22/2005</u> Signature <u>[Signature]</u> Typed or printed name <u>Judy Carey</u> | | Application Number 10/764,812 | Filed 01/26/2004 |
| | | First Named Inventor Martha Karen BOYD | |
| | | Art Unit 2686 | Examiner LY, Nghi H. |
| Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. | | | |
| This request is being filed with a notice of appeal. | | | |
| The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. | | | |
| I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input type="checkbox"/> attorney or agent of record. Registration number _____ <input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>51,596</u> | | <u>[Signature]</u> Signature Ryan S. Davidson Typed or printed name (512) 327-5515 Telephone number <u>22 November 2005</u> Date | |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*. | | | |
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Applicant: Martha Karen BOYD

Title: INTEGRATED MOBILE PHONE RING SCHEDULER

App. No.: 10/764,812 Filed: 01/26/2004

Examiner: LY, Nghi H. Group Art Unit: 2686

Customer No.: 34456 Confirmation No.: 6878

Atty. Dkt. No.: 1033-MS1013

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Commissioner for Patents
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**REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Office Action mailed May 19, 2005 (hereinafter, "the First Action"), and the Final Office Action mailed October 21, 2005 (hereinafter, "the Final Action"), and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicant requests review of the following issues:

The proposed combination of Awada and Burgess fails to disclose or suggest a control to override a ringer control schedule as recited by claims 1, 12, and 20

Independent claims 1 and 12 recite the feature of a control to override a ringer control schedule. Claim 20, which depends from independent claim 16, also recites this feature. As discussed in detail at pages 7 and 8 of the Response filed August 7, 2005 (hereinafter, "the Response"), neither Awada (U.S. Patent No. 6,831, 970) nor Burgess (U.S. Patent No. 6,359,970) discloses or even suggests these features. In response, the Final Action asserts "Awada does indeed teach a control to override the ringer control schedule (Abstract, see 'update

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the calendar' and 'converting the calendar information', also column 2, lines 46-67 and column 5, lines 43-59, see 'update profile and calendar information')." *Final Action*, p. 12. Thus, the *Final Action* erroneously concludes that Awada discloses a control to override the ringer control schedule because Awada discloses a technique for updating and converting calendar information. Contrary to the Office's assertions, one of ordinary skill in the art will appreciate that the updating of a calendar is not the same as, or even analogous to, a control to override a ringer control schedule. Rather, updating a calendar as taught by Awada merely results in an update, or change, to a schedule represented by the calendar, which continues to remain in its normal operation, whereas overriding a ringer control schedule results in a departure from the implemented schedule. See, e.g., *The American Heritage Dictionary of the English Language*, Fourth Edition, Houghton Mifflin Company, 2000, p. 1255 (defining "override" as "c. To counteract the normal operation (of an automatic control); see also *Id.*, p. 1889 (defining "update" as "To bring up to date").¹ Accordingly, as Awada and Burgess fail to disclose or even suggest, individually or in combination, the claimed features of a control to override a ringer control schedule, the proposed combination of Awada and Burgess fails to disclose or suggest the particular combinations of features recited by claims 1, 12, and 20.

There is no motivation to combine the teachings of Awada and Dutta as proposed

Claim 7 recites an interface to an external device, wherein a ringer schedule interface uses the interface to receive at least part of a ringer control schedule created using and downloaded by the external device. Claim 8, which depends from claim 7, recites that the interface comprises a short-range wireless interface. Independent claim 22 recites similar features. The *First Action* acknowledged that Awada fails to disclose or suggest a short-range wireless interface and alleged that "it would have been obvious to one of ordinary skill in the art . . . to provide the teaching of Dutta into the system of Awada in order to provide a hold operation from a mobile telephone (see Dutta, Abstract)." *First Action*, p. 9. However, the Office's rationale for the motivation to combine the teachings of Awada and Dutta is of no relevance as claim 8 provides that the interface used to receive a ringer control schedule comprises a short-range wireless interface and makes no mention of providing or receiving a hold operation in any manner. As described at pages 10 and 11 of the Response, Dutta does not

¹ These definitions are provided for illustrative purposes and do not limit the scope of the pending claims.

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disclose or suggest the use of a short-range wireless interface to receive at least part of a ringer control schedule created and downloaded by an external device, as recited by claim 8. Rather, the disclosure of Dutta is directed to "providing a hold operation from a mobile telephone" and the relied-upon passage of Dutta merely discloses the use of a "Bluetooth server command" and a "Bluetooth hold command" to implement a hold operation. Dutta does not disclose that these "Bluetooth commands" are used to transfer scheduling information in any manner, much less to transfer at least part of a ringer control schedule. Accordingly, one of ordinary skill in the art would find no motivation in the teachings of either Awada or Dutta to use the Bluetooth interface of Dutta in the system of Awada. Accordingly, there is no motivation to combine the teachings of Awada and Dutta as proposed to arrive at the features recited by claims 8 or 22.

The proposed combination of Awada and Burgess fails to disclose or suggest a ringer schedule interface that uses a user input device to create part of a ringer control schedule and uses an interface with an external device to receive another part of the ringer control schedule created using and downloaded thereto by the external device as recited by claim 16

Independent claim 16 recites a mobile telephone comprising a ringer schedule interface that uses a user input device to create part of a ringer control schedule and uses an interface with an external device to receive another part of the ringer control schedule created using and downloaded thereto by the external device. As discussed at pages 8 and 9 of the Response, Awada fails to describe a ringer control schedule that is created in part by input from a user interface of a mobile telephone and created in part by, and downloaded from, an external device. Therefore, Awada fails to disclose or suggest a ringer schedule interface that uses a user input device to create part of a ringer control schedule and uses an interface with an external device to receive another part of the ringer control schedule, as recited by claim 16. In response, the Final Action asserts that "Awada does indeed teach a ring control schedule that is created [in] part by input from user a user interface [sic] of mobile telephone and downloaded from, an external device (see [Awada], column 2, lines 46-67, see 'remotely activate a profile of a telephone')." *Final Action*, p. 13 (emphasis in original).

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The cited passage of Awada teaches that

In a preferred embodiment, the present invention includes a calendar application to receive and manage calendar information, associating a suitable telephone profile with the calendar information, transmitting these profile associations to the telephone and activating the desired profile at an appropriate time. After an event has expired (either due to cancellation or completion), a subsequent profile may be activated. In addition, an alternate embodiment of the present invention includes providing a means for the user to update profile and calendar information on the telephone and having that information transmitted to a remote profile activator (such as a calendar application).

Awada, col. 2, lines 55-67 (emphasis added).

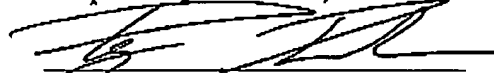
Thus, Awada teaches that calendar information may be received in two alternate ways: 1) via the remote calendar application; or 2) via the telephone. However, as illustrated by the identification of the first way as "in a preferred embodiment" and the identification of the second as "an alternate embodiment," Awada contemplates using only one of the two described ways and Awada does not contemplate using both the remote calendar application and user input at the telephone to obtain calendar information. Accordingly, Awada and Burgess fail to disclose or suggest, individually or in combination, the features of a mobile telephone comprising a ringer schedule interface that uses a user input device to create part of a ringer control schedule and uses an interface with an external device to receive another part of the ringer control schedule created using and downloaded thereto by the external device, as recited by claim 16. The proposed combination of Awada and Burgess therefore fails to disclose or suggest the particular combination of features recited by claim 16.

Conclusion

As discussed above, the Office fails to establish that the proposed combinations of the cited references disclose or suggest each and every element recited by any of the pending claims. Reconsideration and withdrawal of these rejections therefore is respectfully requested.

22 November 2005
Date

Respectfully submitted,



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